

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-73-C - ORDER NO. 2003-362 *WJ*

JUNE 2, 2003

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| IN RE: Application of IDT America, Corp. for a Certificate of Public Convenience and Necessity to Provide Local Exchange Telecommunications Services. |) ORDER GRANTING) MOTION FOR) EXPEDITED REVIEW) AND APPLICATION FOR) AUTHORITY TO) PROVIDE LOCAL) EXCHANGE SERVICE |
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This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of IDT America, Corp. ("IDT" or "the Company") requesting the authority to provide local exchange service in South Carolina. IDT is already authorized to provide resold interexchange service within the State of South Carolina. By this Application, the Company seeks authorization to offer facilities based and resold local exchange service to residential and business customers in South Carolina.

The Commission's Executive Director instructed IDT to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. IDT complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed with the Commission by the South Carolina Telephone Coalition ("SCTC") on April 22, 2003. On or about April 29, 2003, IDT and SCTC entered into a Stipulation Agreement. That Agreement was filed with the

Commission on or about April 30, 2003, and is a part of the Commission's record in this matter. Under the Stipulation Agreement, IDT has agreed to provide local telecommunications service only to customers located in non-rural areas of South Carolina. Any exception to this limitation would require IDT to provide at least thirty days prior notice to the incumbent LEC and this Commission of IDT's intent to offer local service to a customer located in a rural incumbent LEC's service area.

IDT additionally seeks waiver of the regulatory requirements that it be required to keep its books and records in South Carolina and the requirement that it be required to publish and distribute telephone directories. IDT further requested in its Application that it be allowed to use Generally Accepted Accounting Principles ("GAAP") for its record keeping and reporting and for a waiver of any of the Commission's reporting requirements.

On May 16, 2003, IDT filed a Motion for Expedited Review pursuant to 26 S.C. Code of Regulations 103-820 and 103-840 for approval of its Application. Along with the Motion, IDT provided the Commission with verified testimony of Carl Billek, IDT's Associate General Counsel for Legal and Regulatory Affairs, and documentation evidencing that the Company possesses the financial, operational, and managerial resources required to provide high quality local exchange telecommunications service at competitive rates, terms and conditions. IDT was initially issued a Certificate for long distance authority and alternative regulation by this Commission in 1994 in Docket No. 94-398-C.

FINDINGS OF FACT

1. IDT is organized as a corporation under the laws of the State of New Jersey and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. IDT was authorized to operate as a non-facilities based reseller of interexchange services in South Carolina by Order of this Commission in Docket No. 94-398-C and now wishes to expand its service in South Carolina to include local exchange telecommunications services.

3. The Commission finds that IDT possesses the necessary experience, capability, and financial resources to provide local exchange telecommunications in South Carolina. S.C. Code Ann. Section 58-9-280(B)(1).

4. The Commission further finds that IDT will provide communications services which will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2).

5. The Stipulation Agreement entered into by IDT and the SCTC is made a part of the record in this matter. Under the terms of that Agreement, IDT will only offer local exchange service to customers in the non-rural areas of South Carolina. Should IDT wish to offer local exchange service to customers in the areas currently served by rural incumbent LECs, it shall provide at least thirty days prior written notice to the Commission and the incumbent LEC.

6. With the exception of the Petition to Intervene filed by SCTC, which was resolved by the aforesated Stipulation, no additional protests or Motions for Intervention were filed in this matter.

7. The Commission finds sufficient facts to support the Company's request to utilize GAAP to maintain its books of accounts.

8. The Commission finds that the Company has additionally established sufficient facts and cause to warrant its exemption from the Commissions requirement to publish local exchange directories.

9. The Commission finds insufficient facts to support IDT's request for a waiver of the Commissions reporting requirements and, therefore, finds that the Company shall be required to file information with the Commission consistent with that required of similar CLECs.

10. The Commission finds that the provision of local exchange service by IDT will not adversely impact the availability of local exchange service, will support universally available telephone service at affordable rates, and will not adversely impact the public interest. S.C. Code Ann. Section 58-9-280(B)(3), (4) & (5).

CONCLUSIONS OF LAW

1. IDT's Motion for Expedited Review is granted on the basis of the facts as stated in this Order and under the authority of Commission Regulations 103-820 and 103-840.

2. Based on the above findings of fact, the Commission concludes IDT should be granted a Certificate of Public Convenience and Necessity to provide competitive

intrastate local exchange services only to customers located in non-rural areas of South Carolina. The terms of the stipulation agreement between IDT and SCTC are adopted as a part of this Order. The stipulation is attached as Order Exhibit 1. Any proposals to provide local service to rural areas are, therefore, subject to the terms of the stipulation.

3. IDT shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law

4. With regard to IDT's service offerings, the Commission adopts a rate design that requires the specific rate for each tariff charge to be stated in the tariff and price list. IDT shall not adjust its rates without notice to the Commission and to the public. Any request for a new rate or rates which affects the Company's general body of subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2002).

5. IDT is further required, in accordance with its Application and under Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs IDT to contact the appropriate authorities regarding 911 service in the counties and cities where the company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning local telephone service

in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association (“SCNENA”) with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Division of Chief Information Officer of the South Carolina Budget and Control Board. By this Order and prior to providing local telephone services in South Carolina, IDT shall contact the 911 coordinator in each county (and city where the city has its own 911 system) and shall provide information regarding the Company’s operations as required by the 911 system.

6. IDT shall resell the services of only those LECs authorized to do business in South Carolina by this Commission. If IDT changes underlying carriers, it shall notify the Commission in writing.

7. IDT is required to file annual report information for competitive local exchange carriers. The form the Company shall use to file annual financial information with the Commission can be found at the Commission’s website at www.psc.state.sc.us/forms/default.htm. This form is entitled “Annual Report for Competitive Local Exchange Carriers” and consists of four pages. Additionally, IDT shall file with the Commission a quarterly report entitled “CLEC Service Quality Quarterly Report.” The proper form for this report is found on the Commission’s website at www.psc.state.sc.us/forms/default.htm.

8. The Company shall continue to maintain an authorized utility representative who must be prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. Further, the Company shall promptly

notify the Commission in writing if the representative(s) is replaced. The form IDT is required to use by which to file the authorized utility representative information may be found at the Commission's website at www.psc.state.sc.us/forms/default.htm. This form is entitled "Authorized Utility Representative Information." IDT shall also file with the Commission a copy of its general bill form for the additional service authorized by this Order as required by S.C. Code Ann. Regs. 103-612.2 and 103-622.

9. IDT shall conduct its business in compliance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

10. The Federal Communications Commission (FCC) in July of 2000 required all telecommunications carriers throughout the United States to implement three-digit, 711, dialing for access to all Telecommunications Relay Services (TRS). The Commission issued a memorandum in March of 2001 instructing all South Carolina telecommunications carriers to implement the service completely by October of 2001. All competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) were instructed to include language in their tariffs introducing 711 as a new service offering with deployment by July 1, 2001, and to translate 711 dialed calls to 1-800-735-2905. All Payphone Service Providers (PSPs) were instructed to modify their programmable phones to translate calls dialed as 711 to the assigned TRS toll free number 1-800-735-2905 in order to route 711 calls to the TRS provider before October 2, 2001. Additionally, telephone directories were required to be updated and bill inserts promoting 711 were also required. IDT must comply with the applicable mandates. For

complete information on compliance with this FCC and Commission requirement, go to the Commission's website at www.psc.state.sc.us/forms.

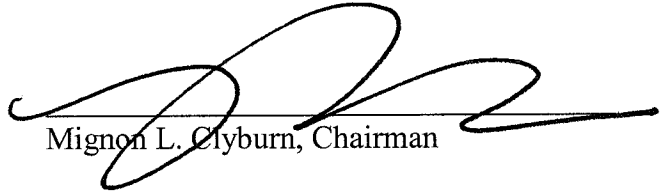
11. By its Application, IDT requested a waiver of 26 S.C. Code Ann. Regs. 103-631 (1976 and Supp. 2002). In lieu of publishing local directories, IDT informs the Commission that if, and when, it provides switched voice services, it will contract with the incumbent LECs to provide IDT's customers with directory listings, as well as to undertake the distribution of directories. The Commission finds IDT's request reasonable and grants the requested waiver of the application of 26 S.C. Code Ann. Regs. 103-631 (1976 and Supp. 2001). Further, IDT is granted a waiver of 26 S.C. Regs. 103-610 (1976 and Supp. 2002) requiring the Company to maintain its financial books and records within the State of South Carolina. IDT is hereby granted permission to maintain its financial books and records at its principal headquarters in Newark, New Jersey provided IDT will make its records available for inspection at reasonable times as requested by the Commission or the Commission Staff. Further, the Commission acknowledges that IDT will maintain its financial books and records in conformance with GAAP. IDT is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

JUNE 2, 2003

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12. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn, Chairman

ATTEST:



Gary E. Walsh, Executive Director

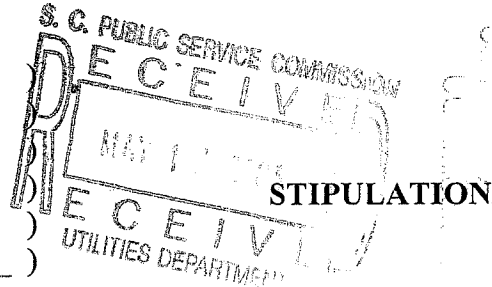
(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

just 5/12/03

Docket No. 2003-073-C

Re: Application of IDT America Corp. for
a Certificate of Public Convenience and
Necessity to Provide Local Exchange
Telecommunications Services in the State
of South Carolina



The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and IDT America Corp. ("IDT America") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose IDT America's Application. SCTC and IDT America stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to IDT America, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.
2. IDT America stipulates and agrees that any Certificate which may be granted will authorize IDT America to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.
3. IDT America stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.
4. IDT America stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and

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until IDT America provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, IDT America acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. IDT America stipulates and agrees that, if IDT America gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then IDT America will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. IDT America acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and IDT America, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. IDT America agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. IDT America hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 29th day of April 2003,
2003.

IDT America Corp.:

Carl Wolf Rilleh

South Carolina Telephone Coalition:

Margaret M. Fox

M. John Bowen, Jr.
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Attorneys for the South Carolina Telephone
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company